

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 7

SENATE BILL 1044

AN ACT

AMENDING SECTIONS 41-1505.05, 44-1801, 44-1823, 44-1843.01, 44-1843.02, 44-1863, 44-1902, 44-1941, 44-1963, 44-1991, 44-2039, 44-3101, 44-3133, 44-3151, 44-3153, 44-3155, 44-3156, 44-3157, 44-3158, 44-3159 AND 44-3181, ARIZONA REVISED STATUTES; RELATING TO SECURITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 commission on or before the last working day of December. The annual
2 nonrefundable license fee for each investment adviser and the annual
3 nonrefundable notice filing fee prescribed in section 44-3153, subsection D-
4 F are two hundred fifty dollars and the annual nonrefundable license fee for
5 each investment adviser representative is forty dollars.

6 B. An investment adviser that fails to timely renew an annual
7 INVESTMENT ADVISER OR INVESTMENT ADVISER REPRESENTATIVE license or notice
8 filing shall pay a penalty of twenty-five dollars per business day until the
9 appropriate documents and fee are filed, up to a maximum of forty business
10 days. Failure to timely renew is not a violation of section 44-3151 if the
11 license or notice filing fee and penalty are paid within forty business days.
12 Failure to renew within forty business days may result in additional
13 sanctions as provided in this chapter.

14 C. The transfer fee for an investment adviser representative
15 transferring that investment adviser representative's license from one
16 investment adviser to another investment adviser is forty dollars.

17 D. ALL APPLICATIONS, WITHDRAWALS, TERMINATIONS, TRANSFERS, RENEWALS
18 OR OTHER FILINGS WITH THE IARD SHALL BE ON THE FORMS REQUIRED BY THE IARD AND
19 SHALL BE ACCOMPANIED BY ANY REASONABLE COSTS CHARGED BY THE IARD FOR
20 PROCESSING THE FILINGS. ANY PERSON REQUIRED TO PAY A FEE PURSUANT TO THIS
21 SECTION MAY TRANSMIT THE FEE TO THE COMMISSION THROUGH THE IARD.

22 E. THE COMMISSION SHALL RETAIN ANY NOTICE FILING OR LICENSURE FEES
23 COLLECTED IN CONNECTION WITH ABANDONED APPLICATIONS OR NOTICE FILINGS. A
24 notice filing made pursuant to section 44-3153, subsection D or an
25 application for licensure of an investment adviser or investment adviser
26 representative is deemed abandoned if BOTH:

27 1. The notice filing or application has been on file with the
28 commission for a minimum of twelve AT LEAST SIX months and OR the person
29 making the filing or the applicant OR NOTICE FILER has failed to respond to
30 A REQUEST FOR INFORMATION FOR AT LEAST TWO MONTHS AFTER THE DATE OF THE
31 REQUEST.

32 2. THE APPLICANT OR NOTICE FILER HAS FAILED TO RESPOND TO the
33 commission's notice of warning of abandonment within sixty calendar days
34 after the date of the warning. The commission shall retain any notice filing
35 or licensure fees collected in connection with abandoned applications or
36 notice filings.

APPROVED BY THE GOVERNOR MARCH 13, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 13, 2001.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1505.05, Arizona Revised Statutes, is amended
3 to read:

4 41-1505.05. Commerce and economic development commission

5 A. The commerce and economic development commission is established.
6 The commission shall consist of ~~four~~ FIVE members appointed by the governor
7 in accordance with section 38-211, ~~the director of the securities division~~
8 ~~of the corporation commission~~ and the director of the department of commerce.
9 The director of the department of commerce shall serve as chairman of the
10 commission.

11 B. The commission shall:

12 1. Develop, revise and submit to the director a long-range strategic
13 plan and conduct other study activities as appropriate.

14 2. Review and make recommendations for the department's annual plan.

15 3. Develop policies for use by the department in evaluating requests
16 for grants and other financial assistance programs.

17 4. Issue and make reports as required by law.

18 5. Provide for the administration of the fund established by section
19 41-1505.10.

20 6. Advise the department as needed.

21 7. Administer the small business enterprise and research program as
22 provided in article 5- 6 of this chapter.

23 C. Each person appointed to the commission shall have training and
24 experience in at least one of the following areas:

25 1. Finance.

26 2. International trade.

27 3. Business management.

28 4. Environment.

29 5. Economics.

30 6. Programs designed to encourage and foster the location of
31 businesses within this state and the expansion and retention of existing
32 businesses.

33 D. Four members of the commission constitute a quorum for the purpose
34 of conducting business, and an affirmative vote of the majority of members
35 present at any meeting is sufficient for any action to be taken.

36 E. Except for the director of the department of commerce and the
37 ~~director of the securities division of the corporation commission~~, members
38 of the commission shall serve three-year terms beginning and ending on the
39 third Monday in January.

40 F. By unanimous vote the commission may delegate to one or more of its
41 members or to any of its agents or employees those powers and duties deemed
42 appropriate.

43 G. Members of the commission are not eligible to receive compensation
44 but are eligible for reimbursement of expenses pursuant to title 38, chapter
45 4, article 2.

1 Sec. 2. Section 44-1801, Arizona Revised Statutes, is amended to read:
2 44-1801. Definitions

3 In this chapter and chapter 13 of this title, unless the context
4 otherwise requires:

5 1. "Blind pool offering" means an offering in which either:

6 (a) The offering materials do not describe specific operational plans.

7 (b) Eighty per cent or more of the net offering proceeds are not
8 specifically allocated for the purchase, construction, or development of
9 identified property or products, for the payment of indebtedness or overhead
10 expenses, or for other activities set forth in the issuer's business plan.

11 2. "Commission" means the Arizona corporation commission.

12 3. "Commodity" means any agricultural, grain or livestock product or
13 by-product, any metal or mineral including a precious metal, any gem or
14 gemstone whether characterized as precious, semiprecious or otherwise, any
15 fuel whether liquid, gaseous or otherwise, any foreign currency and all other
16 goods, articles, products or items of any kind. Commodity does not include
17 a numismatic coin with a fair market value at least fifteen per cent higher
18 than the value of the metal it contains, real property or any timber,
19 agricultural or livestock product grown or raised on real property and
20 offered or sold by the owner or lessee of such real property, or any work of
21 art offered or sold by art dealers, at public auction or offered or sold
22 through a private sale by the owner.

23 4. "Commodity exchange act" means the act of Congress known as the
24 commodity exchange act (7 United States Code, chapter 1).

25 5. "Commodity futures trading commission" means the independent
26 regulatory agency established by Congress to administer the commodity
27 exchange act.

28 6. "Commodity investment contract" means any account, agreement or
29 contract for the purchase or sale, primarily for speculation or investment
30 purposes and not for use or consumption by the offeree or purchaser, of one
31 or more commodities, whether for immediate or subsequent delivery or whether
32 delivery is intended by the parties, and whether characterized as a cash
33 contract, deferred shipment or deferred delivery contract, forward contract,
34 futures contract, installment or margin contract, leverage contract or
35 otherwise. Any commodity investment contract offered or sold, in the absence
36 of evidence to the contrary, is presumed to be offered or sold for
37 speculation or investment purposes. A commodity investment contract does not
38 include any contract or agreement which requires, and under which the
39 purchaser receives, within twenty-eight calendar days after the payment in
40 good funds of any portion of the purchase price, physical delivery of the
41 total amount of each commodity to be purchased under the contract or
42 agreement.

43 7. "Commodity option" means any account, agreement or contract giving
44 a party to the account, agreement or contract the right but not the
45 obligation to purchase or sell one or more commodities or one or more

1 commodity investment contracts, whether characterized as an option,
2 privilege, indemnity, bid, offer, put, call, advance guaranty, decline
3 guaranty or otherwise.

4 8. "CRD system" means the central registration depository system of
5 the national association of securities dealers, incorporated.

6 9. "Dealer":

7 (a) Means a person who directly or indirectly engages full-time or
8 part-time in this state as agent, broker or principal in the business of
9 offering, buying, selling or otherwise dealing or trading in securities
10 issued by another person, and who is not a salesman for a registered dealer
11 or is not a bank or savings institution the business of which is supervised
12 and regulated by an agency of this state or the United States.

13 (b) Means an issuer, other than an investment company, who, directly
14 or through an officer, director, employee or agent who is not registered as
15 a dealer under this chapter, engages in selling securities issued by such
16 issuer.

17 (c) Does not include a person who sells or offers to sell securities
18 exclusively to dealers registered under this chapter, and who has no place
19 of business within this state.

20 (d) Does not include a person who buys or sells securities for his own
21 account, either individually or in a fiduciary capacity, but not as part of
22 a regular business.

23 10. "Director" means the director of the securities division of the
24 commission.

25 11. "Division" means the securities division of the commission.

26 12. "Federal covered security" means any security described as a
27 covered security in section 18 of the securities act of 1933.

28 13. "Issuer" means any person who issues or proposes to issue any
29 security, except:

30 (a) With respect to certificates of deposit, voting-trust
31 certificates, collateral-trust certificates, certificates of interest or
32 shares in an unincorporated investment trust, whether or not of the fixed,
33 restricted management, or unit type, issuer means the person or persons
34 performing the acts and assuming the duties of depositor or manager pursuant
35 to the provisions of the trust or other agreement or instrument under which
36 such securities are issued.

37 (b) With respect to equipment-trust certificates or like securities,
38 issuer means the person by whom the equipment or property is or is to be
39 used.

40 (c) With respect to fractional interests in any oil, gas or other
41 mineral lease, permit, claim or right, issuer means the owner thereof or of
42 any interest therein, whether whole or fractional, fractional interests in
43 which are created for the purpose of a public offering.

44 14. "Numismatic coin":

45 (a) Means a coin that has all of the following characteristics:

1 (i) The coin is of interest primarily to coin collectors rather than
2 to speculators or investors in precious metals.

3 (ii) The fair market value of the coin is determined primarily by its
4 design, subject matter, limited mintage, rarity and relative condition of
5 preservation from wear rather than by its intrinsic precious metal or bullion
6 content.

7 (iii) The fair market value of the coin is directly related to an
8 individual inspection and grading of its relative condition according to an
9 established system of numismatic standards promulgated independently of the
10 offerer of the coin.

11 (iv) With THE exception of proof, mint and commemorative coins, the
12 coin is minted or manufactured under authority of the issuing government for
13 the purpose of being used as legal tender.

14 (b) Does not include a coin that has at least one of the following
15 characteristics:

16 (i) The coin is minted, manufactured or advertised for sale primarily
17 to persons who seek to invest or speculate in precious metals rather than to
18 coin collectors or for use in commerce as legal tender.

19 (ii) The coin is advertised or sold with the expectation that it will
20 be purchased or traded for its intrinsic precious metal or bullion content.

21 (iii) The price of the coin is directly related to the spot market
22 price of its intrinsic precious metal or bullion content.

23 (iv) The coin is generally not used as legal tender.

24 (v) The quantity of mintage or manufacture of the coin is based on
25 market demand.

26 (vi) The coin is not sought for its design, subject matter, limited
27 mintage, rarity or relative condition of preservation from wear, but instead
28 is sought for the value of its intrinsic precious metal or bullion content.

29 15. "Offer to sell" or "offer for sale" means an attempt or offer to
30 dispose of, or solicitation of an order or offer to buy, a security or
31 interest in a security for value or any sale or offer for sale of a warrant
32 or right to subscribe to another security of the same issuer or of another
33 issuer. Any sale or offer for sale of a security which gives the holder
34 thereof a present or future right or privilege to convert such security into
35 another security of the same issuer or of another issuer shall be deemed an
36 offer to sell the security to be acquired pursuant to such right or
37 privilege, but the existence thereof shall not be construed as affecting the
38 registration or exemption under this chapter of the security to which it
39 attaches.

40 16. "Person" means an individual, corporation, partnership,
41 association, joint stock company or trust, limited liability company,
42 GOVERNMENT OR GOVERNMENTAL SUBDIVISION OR AGENCY or any other unincorporated
43 organization.

44 17. "Precious metal" means the following in either coin, bullion or
45 other form:

- 1 (a) Silver.
- 2 (b) Gold.
- 3 (c) Platinum.
- 4 (d) Palladium.
- 5 (e) Copper.

6 18. "Real property investment contract" means a contract for the sale
7 or purchase of a promissory note secured directly or collaterally by a
8 mortgage, deed of trust or other lien on real property, including a contract
9 as defined by section 33-741, or any agreement, arrangement or understanding
10 in connection with such note, lien or contract in which a person agrees,
11 implies to do or does any of the following, whether or not the investor is
12 aware that any of the following actions are contemplated or taken:

- 13 (a) Guarantee the note, lien or contract against loss at any time.
- 14 (b) Promise to provide a market for the sale of the note, lien or
15 contract, in connection with a sale or purchase.
- 16 (c) Offer to accept or accept funds for investment in notes or
17 contracts secured directly or indirectly by a lien on real property, where
18 the real property is unspecified at the time of investment.
- 19 (d) Pay any interest or premium for a period before actual purchase
20 and delivery of the note or contract.
- 21 (e) Pay any money to an investor if the note or contract is in
22 arrears.
- 23 (f) Guarantee that principal or interest will be paid in conformity
24 with the terms of the note or contract.
- 25 (g) Accept, from time to time, partial payment toward the purchase of
26 the note or contract.
- 27 (h) Promise to repurchase the note or contract, in connection with
28 sale or purchase.

29 19. "Registered dealer" means a dealer registered under this chapter.

30 20. "Registered salesman" means a salesman registered under this
31 chapter.

32 21. "Sale" or "sell" means a sale or any other disposition of a
33 security or interest in a security for value, and includes a contract to make
34 such sale or disposition. A security given or delivered with, or as a bonus
35 on account of, a purchase of securities or other thing shall be conclusively
36 presumed to constitute a part of the subject of the purchase and to have been
37 sold for value.

38 22. "Salesman" means an individual, other than a dealer, employed,
39 appointed or authorized by a dealer to sell securities in this state. The
40 partners or executive officers of a registered dealer shall not be deemed
41 salesmen within the meaning of this definition.

42 23. "SEC" means the United States securities and exchange commission.

43 24. "Securities act of 1933" means the act of Congress known as the
44 securities act of 1933.

1 25. "Securities exchange act of 1934" means the act of Congress known
2 as the securities exchange act of 1934.

3 26. "Security" means any note, stock, treasury stock, bond, commodity
4 investment contract, commodity option, debenture, evidence of indebtedness,
5 certificate of interest or participation in any profit-sharing agreement,
6 collateral-trust certificate, preorganization certificate or subscription,
7 transferable share, investment contract, viatical or life settlement
8 investment contract, voting-trust certificate, certificate of deposit for a
9 security, fractional undivided interest in oil, gas or other mineral rights,
10 real property investment contract or, in general, any interest or instrument
11 commonly known as a "security", or any certificate of interest or
12 participation in, temporary or interim certificate for, receipt for,
13 guarantee of, or warrant or right to subscribe to or purchase, any of the
14 foregoing.

15 27. "Self-regulatory organization" or "SRO" means any national
16 securities or commodities exchange, registered association or registered
17 clearing agency.

18 ~~28. "SRD system" means a securities registration depository system~~
19 ~~established to receive electronic filings of securities offerings.~~

20 29. 28. "Underwriter" means a person who has acquired from an issuer
21 with a view to, or sells for an issuer in connection with, the distribution
22 of any securities or participates or has a direct or indirect participation
23 in such undertaking, or participates or has a participation in the direct or
24 indirect underwriting of such undertaking. Underwriter shall not include a
25 person whose interest is limited to a commission from an underwriter or
26 dealer not in excess of the usual and customary distributor's or seller's
27 commission.

28 ~~30.~~ 29. "Viatical or life settlement investment contract" means an
29 agreement for consideration for the purchase, assignment, transfer, sale,
30 devise or bequest of any portion of the death benefit under or ownership of
31 either an insurance policy or certificate of insurance. A viatical or life
32 settlement investment contract does not include:

33 (a) Any agreement for the original issuance of an insurance policy or
34 certificate of insurance.

35 (b) An assignment, transfer, sale, devise or bequest of a death
36 benefit under or ownership of either an insurance policy or certificate of
37 insurance by the original owner or a person who has an insurable interest in
38 the insured pursuant to section 20-1104 to any of the following:

39 (i) The insured.

40 (ii) A person who has an insurable interest in the insured pursuant
41 to section 20-1104.

42 (iii) A dealer.

43 (iv) A person who is engaged in the business of purchasing the death
44 benefit under or ownership of either insurance policies or certificates of
45 insurance.

1 (c) An assignment of an insurance policy or certificate of insurance
2 to any bank, savings bank, savings and loan association, credit union or
3 other licensed lending institution as collateral for a loan.

4 (d) The exercise of accelerated benefits pursuant to the life
5 insurance policy.

6 Sec. 3. Section 44-1823, Arizona Revised Statutes, is amended to read:

7 44-1823. Power to require testimony and production of records

8 A. For the purpose of investigations or hearings which, in the opinion
9 of the commission, are necessary and proper for the enforcement of this
10 chapter, any member of the commission, the director or any officer or
11 officers designated by the commission may administer oaths and affirmations,
12 subpoena witnesses, take evidence and require by subpoena duces tecum or by
13 citation the production of books, papers, contracts, agreements or other
14 documents, records or information, whether filed or kept in original form or
15 electronically stored or recorded which the commission deems relevant or
16 material to the inquiry.

17 B. THE COMMISSION MAY ISSUE AND APPLY TO ENFORCE A SUBPOENA IN THIS
18 STATE AT THE REQUEST OF A SECURITIES AGENCY OR ADMINISTRATOR OF ANOTHER STATE
19 IF THE ACTIVITIES CONSTITUTING AN ALLEGED VIOLATION FOR WHICH THE INFORMATION
20 IS SOUGHT WOULD BE A VIOLATION OF THIS CHAPTER IF THE ACTIVITIES HAD OCCURRED
21 IN THIS STATE.

22 Sec. 4. Section 44-1843.01, Arizona Revised Statutes, is amended to
23 read:

24 44-1843.01. Nonexempt government securities; covered
25 securities; exemptions

26 A. Notwithstanding section 44-1843, SUBSECTION A, paragraph 1,
27 sections 44-1841 and 44-1842 apply to the following classes of securities
28 that are issued by a person who is located in this state, unless the
29 requirements of subsection B OR C of this section are met, ~~and~~. The
30 requirements of subsection C of this section apply to the following classes
31 of securities that are described as covered securities in section 18(b)(4)(C)
32 of the securities act of 1933:

33 1. Any obligations or securities that are industrial development bonds
34 as defined in section 103 of the United States internal revenue code of 1954,
35 as amended, with no exception for the small issue exemptions contained in
36 section 103(b)(6) or 103(d), except that the provisions of this paragraph
37 shall not apply to any issue where substantially all of the proceeds are to
38 be used to provide residential real property for family units, airports,
39 docks, wharves, mass commuting facilities, parking facilities, sewage or
40 solid waste disposal facilities, air or water pollution control facilities,
41 or facilities for the furnishing of water if available on reasonable demand
42 to members of the general public.

43 2. Bond anticipation notes authorized pursuant to title 48, chapter
44 6, article 1.

1 3. Improvement district bonds authorized pursuant to title 48, chapter
2 6, article 2.

3 4. Bonds of issuers located outside the state secured only by special
4 assessments.

5 5. Securities of public subdivisions used to provide monies to finance
6 the acquiring, constructing, improving, equipping or furnishing of medical
7 office buildings, sanitariums, clinics, medical hotels, mortuaries,
8 cemeteries, mausoleums, rest homes, nursing homes, skilled nursing facilities
9 or other similar facilities for use by corporations or entities other than
10 municipal which bonds or notes are not fully secured by payments to be made
11 by an entity owning or operating, repurchasing or leasing a hospital from a
12 political subdivision.

13 B. Sections 44-1841 and 44-1842 do not apply to the securities that
14 are issued by a person who is located in this state and to which subsection
15 A of this section applies if the following conditions are met:

16 1. With respect to the nongovernmental entity responsible for making
17 the payments pledged to repay the obligations, there shall be filed with the
18 commission a notice of the proposed offering, the trust indenture, if any,
19 a two hundred dollar filing fee and an official statement or prospectus which
20 includes the financial disclosures required by section 44-1894. The filing
21 shall be by the nongovernmental user with respect to obligations to which
22 subsection A, paragraphs 1 and 5 of this section apply and by the underwriter
23 or dealer with respect to obligations to which subsection A, paragraph 2, 3
24 or 4 of this section applies. The trust indenture, official statement or
25 prospectus may be filed in draft form if substantially complete. In the case
26 of special assessment bonds to which this section applies, the commission may
27 waive the requirement for filing an official statement or prospectus, modify
28 the information to be contained in the official statement or prospectus or
29 permit the filing of information concerning the bonds in lieu of an official
30 statement or prospectus. The notice, among other things, shall include a
31 statement as to whether a rating on the securities will be sought and from
32 whom the rating will be sought.

33 2. On the receipt of the notice and official statement or prospectus,
34 the exemption shall be effective within twenty days, or less than twenty days
35 if accelerated by order of the director for good cause shown. The exemption
36 shall not become effective if, within such twenty-day period, the commission
37 issues an order to show cause why the exemption should not be denied. If
38 such order to show cause is issued, the applicant shall be given notice and
39 opportunity to be heard pursuant to article 11 of this chapter. The
40 commission may deny an exemption if it finds that the official statement or
41 prospectus is incomplete, inaccurate or misleading.

42 C. For securities to be offered in this state that are described as
43 covered securities in section 18(b)(4)(C) of the securities act of 1933 a
44 person shall file all of the following with the commission:

1 1. A cover letter that describes the offering to be made in this
2 state.

3 2. Any documents that are filed with the SEC and that are required by
4 the commission.

5 3. A filing fee of two hundred dollars.

6 Sec. 5. Section 44-1843.02, Arizona Revised Statutes, is amended to
7 read:

8 44-1843.02. Special filing requirements for certain exempt or
9 federal covered securities

10 A. Any advertising and sales material, other than THE notices required
11 by law to be published or posted, THAT IS used in connection with offers or
12 sales to the public of any of the securities to which section 44-1843.01,
13 subsection A applies shall be filed with the division three business days
14 ~~prior to~~ BEFORE its proposed use. The filing required by this section shall
15 be made by the nongovernmental user, dealer or underwriter.

16 B. Issuers of securities that are described as covered securities in
17 section 18(b)(3) of the securities act of 1933 shall file concurrently with
18 the commission any document filed with the SEC under the securities act of
19 1933. If the issuer is not a corporation or other entity organized under the
20 laws of this state, the issuer shall file a consent to service of process
21 that complies with section 44-1862. At the time of the issuer's initial
22 filing with the commission, the issuer shall pay a fee of one hundred
23 dollars.

24 C. Issuers of securities that are described as covered securities in
25 section 18(b)(4)(D) of the securities act of 1933 shall file with the
26 commission not later than fifteen calendar days after the first sale of
27 securities in or from this state one copy of a notice on form D. The notice
28 on form D shall contain a manual or facsimile signature of a person duly
29 authorized by the issuer and is considered filed with the commission on
30 receipt at the commission's Phoenix office or as of the date on which the
31 notice is mailed by United States registered or certified mail to the
32 commission's Phoenix office if the notice is delivered to that office after
33 the date on which the notice is required to be filed. The issuer shall pay
34 the initial filing fee prescribed in section 44-1861, subsection E.

35 D. Section 44-1842 applies to ~~transactions of~~ federal covered
36 securities TRANSACTIONS unless an exemption is available under another
37 provision of this chapter.

38 Sec. 6. Section 44-1863, Arizona Revised Statutes, is amended to read:
39 44-1863. Receipt of electronic securities filings

40 ~~An SRD system or another similar~~ electronic method acceptable to the
41 commission may be used to make any filings relating to the sale or offer for
42 sale of securities. The filing of documents and information using an SRD
43 ~~system or a similar~~ electronic method is equivalent to paper filing of
44 documents and information with the commission.

1 Sec. 7. Section 44-1902, Arizona Revised Statutes, is amended to read:
2 44-1902. Power of the commission to register certain securities
3 by uniform limited offering registration

4 A. In accordance with rules adopted by the commission, the commission
5 may register under this article certain securities in an aggregate amount not
6 exceeding five million dollars in any twelve month period.

7 B. The rules adopted by the commission pursuant to subsection A of
8 this section shall include:

9 1. ~~A~~ THAT THE ISSUER SHALL SUBMIT A COMPLETED SMALL COMPANY OFFERING
10 REGISTRATION FORM AS ADOPTED BY THE NORTH AMERICAN SECURITIES ADMINISTRATORS
11 ASSOCIATION, INC., OR OTHER disclosure document as prescribed by the
12 commission.

13 2. That the offering is not a blind pool offering.

14 3. That the issuer is not an investment company subject to the
15 investment company act of 1940.

16 4. That the issuer is not subject to the reporting requirements of
17 section 13 or section 15(d) of the securities exchange act of 1934.

18 5. That the issuer of debt offerings can demonstrate ability to
19 service its debt.

20 6. That the application for a uniform limited offering registration
21 is accompanied by a nonrefundable fee as provided in section 44-1861.

22 7. That financial statements and other financial information, if any,
23 required for registration shall be prepared in the manner prescribed in the
24 rules adopted by the commission pursuant to subsection A of this section,
25 notwithstanding any other provision of this chapter.

26 Sec. 8. Section 44-1941, Arizona Revised Statutes, is amended to read:

27 44-1941. Application for registration as dealer; contents;
28 filing; consent to service of process; fee;
29 exemption

30 A. Application for registration as a dealer may be made by any person.
31 An application for registration shall be signed by the applicant and ~~duly~~
32 ~~verified by oath~~. The application shall be filed with the commission, and
33 shall contain the following, together with other information the commission
34 prescribes:

35 1. The name of the applicant.

36 2. The address of the principal place of business of the applicant and
37 the addresses of all branch offices, if any, of the applicant in this state.

38 3. The character of business organization of the applicant and the
39 date of organization.

40 4. The names and business addresses of all members, partners,
41 officers, directors, trustees or managers of the applicant, a statement of
42 the limitations, if any, of the liability of any partner, member, manager or
43 trustee and a statement setting forth in chronological order the business
44 history of each partner, member, officer, director, trustee or manager during
45 the preceding ten years.

1 5. A brief description of the general character of the business
2 conducted or to be conducted by the applicant.

3 6. A list of each state in which the applicant is registered as a
4 dealer and whether or not the registration of the applicant as a dealer has
5 been refused, cancelled, suspended or withdrawn in any state and, if so, a
6 complete statement of the facts with respect thereto.

7 7. A statement showing whether the applicant is registered as a dealer
8 under the securities exchange act of 1934 and whether any such registration
9 of the applicant has been denied, revoked or suspended or made the subject
10 of proceedings for denial, revocation or suspension by the SEC.

11 8. The name of each organization of dealers of which the applicant is
12 a member, or before which any application for membership on the part of the
13 applicant is pending, and whether any such membership of the applicant has
14 been denied, revoked or suspended or made the subject of proceedings for
15 denial, revocation or suspension.

16 9. The name of each securities exchange of which the applicant or any
17 of its partners, officers, directors, trustees, members, managers or
18 employees is a member and whether any such membership has been denied,
19 revoked or suspended or made the subject of proceedings for denial,
20 revocation or suspension.

21 10. For an applicant that is subject to the securities exchange act of
22 1934, any financial information that is required to be provided to the SEC
23 or its designee, under the securities exchange act of 1934 to the extent
24 requested by the commission, and. For all other applicants, an audit report
25 of an independent certified public accountant together with a balance sheet,
26 related statements of income, stockholders' equity or retained earnings and
27 cash flows prepared in accordance with generally accepted accounting
28 principles showing the financial condition of the applicant as of the most
29 recent practicable date before the date of the application OR THE FINANCIAL
30 INFORMATION ESTABLISHED BY THE COMMISSION BY RULE.

31 11. A statement showing whether the applicant or an officer, director,
32 partner, member, trustee, or manager of the applicant has within the past ten
33 years been convicted of or charged with a felony or misdemeanor of which
34 fraud is an essential element, or a felony or misdemeanor involving the
35 purchase or sale of securities or arising out of the conduct of the business
36 of the applicant as a dealer in securities, and, if so, a complete statement
37 of the facts with respect to the felony or misdemeanor.

38 12. A statement showing whether the applicant, or any officer,
39 director, partner, member, trustee or manager of the applicant, has been
40 enjoined or restrained by a court of competent jurisdiction in connection
41 with any transaction involving the purchase or sale of securities and, if so,
42 a complete statement of the facts with respect to the transaction.

43 ~~13. A notarized affidavit of an officer, director, partner, member,~~
44 ~~trustee or manager of the applicant that states that:~~

45 ~~(a) A review of the records of the firm has been conducted.~~

~~(b) No sales have been made to residents of this state before registration as a dealer.~~

~~14. If sales have been made in this state before registration as a dealer, a list of all securities offered or sold from or within this state, the exemption relied on for the offers and sales of those securities, all documents supporting those exemptions and a list of the corresponding investors that includes the investors' names and addresses.~~

~~15. If an applicant intends to have a branch office in this state, the address and name of a contact individual located at that branch office.~~

~~16. If applicable, a copy of any SRO membership agreement.~~

~~17. A statement that is signed by any officer, director, partner, member, trustee or manager of the applicant undertaking to notify the commission at least fifteen days before any change in ownership of at least five per cent or control of the firm.~~

~~18. A copy of the applicant's compliance manual or supervisory procedures manual.~~

B. An application for registration as a dealer shall be accompanied by a written consent to service of process on the commission in actions against that dealer, conforming to the requirements of section 44-1862, and payment of the registration fee prescribed by section 44-1861, subsection A or B.

C. The commission by rule or order may provide limited registration requirements for any dealer or class of dealers or exempt any dealer or class of dealers from registration under this article if the commission determines that registration is not necessary to protect the public interest due to the special characteristics of the securities or transactions in which the dealer or class of dealers is involved.

Sec. 9. Section 44-1963, Arizona Revised Statutes, is amended to read:
44-1963. Entry of order of denial, revocation or suspension

A. If, after A hearing or notice and opportunity for A hearing as provided by article 11 of this chapter, the commission finds grounds to deny, revoke or suspend the registration of a dealer or salesman, the director shall enter an order in the register of dealers and salesmen denying, revoking or suspending the registration of the dealer or salesman. The order shall state specifically the grounds for its issuance.

B. A copy of the order shall be sent by registered CERTIFIED mail to the dealer or salesman whose registration is denied, revoked or suspended and, if the denial, revocation or suspension of the registration is of a salesman, to the registered dealer who employs the salesman.

C. Denial, suspension or revocation of the registration of a dealer shall also suspend or revoke the registration of all OF the dealer's salesmen, but suspension or revocation of the registration of a salesman solely because the salesman was employed by a dealer whose registration was denied, suspended or revoked shall not prejudice subsequent applications for registration by the salesman.

1 D. A dealer or salesman that has voluntarily terminated or allowed the
2 dealer's or salesman's registration to lapse continues to be subject to
3 actions by the commission under this article in connection with conduct that
4 began before the termination or lapse of the registration. The commission
5 shall begin any action under this article against the dealer or salesman
6 within two years after the termination or lapse of the registration.

7 Sec. 10. Section 44-1991, Arizona Revised Statutes, is amended to
8 read:

9 44-1991. Fraud in purchase or sale of securities

10 A. It is a fraudulent practice and unlawful for a person, in
11 connection with a transaction or transactions within or from this state
12 involving an offer to sell or buy securities, or a sale or purchase of
13 securities, including securities exempted under section 44-1843 or 44-1843.01
14 and including transactions exempted under section 44-1844, 44-1845 OR
15 44-1850, directly or indirectly to do any of the following:

- 16 1. Employ any device, scheme or artifice to defraud.
- 17 2. Make any untrue statement of material fact, or omit to state any
18 material fact necessary in order to make the statements made, in the light
19 of the circumstances under which they were made, not misleading.
- 20 3. Engage in any transaction, practice or course of business which
21 operates or would operate as a fraud or deceit.

22 B. In a private action brought pursuant to subsection A, paragraph 2
23 of this section or section 44-1992, if the person who offered or sold the
24 security proves that any portion or all of the amount recoverable under
25 subsection A, paragraph 2 of this section or section 44-1992 represents an
26 amount other than the depreciation in value of the subject security resulting
27 from the part of the prospectus or oral communication, with respect to which
28 the liability of the person is asserted, not being true or omitting to state
29 a material fact required to be stated or necessary to make the statement not
30 misleading, then the amount shall not be recoverable. This subsection does
31 not apply to any actions based on allegations of activities constituting
32 dishonest or unethical practices in the securities industry.

33 Sec. 11. Section 44-2039, Arizona Revised Statutes, is amended to
34 read:

35 44-2039. Securities regulatory and enforcement fund; purpose

36 A. A securities regulatory and enforcement fund is established and
37 shall be administered by the commission under the conditions and for the
38 purposes provided by this section. Monies in the fund are exempt from the
39 provisions of section 35-190, relating to lapsing.

40 B. Fees collected pursuant to section 44-1861, subsection A,
41 paragraphs 1 and 2 and subsections D and P shall be deposited, pursuant to
42 sections 35-146 and 35-147, in the securities regulatory and enforcement
43 fund.

1 C. Monies in the fund are subject to legislative appropriation. The
2 commission shall use the monies in the fund for education and regulatory,
3 investigative and enforcement operations in the securities division.

4 ~~D. On or before January 15, April 15, July 15 and October 15, the~~
5 ~~commission shall cause to be filed with the governor, with copies to the~~
6 ~~director of the department of administration, the president of the senate and~~
7 ~~the speaker of the house of representatives, a full and complete account of~~
8 ~~the receipts and disbursements from the fund in the previous calendar~~
9 ~~quarter.~~

10 Sec. 12. Section 44-3101, Arizona Revised Statutes, is amended to
11 read:

12 44-3101. Definitions

13 In this chapter, unless the context otherwise requires:

14 1. "Closed-end company" means any management company other than an
15 open-end company or unit investment trust.

16 2. "Depository institution" means a bank, savings and loan association
17 or trust company whose business is supervised and regulated by an agency of
18 this state or the United States, or an employee, as defined in title 10,
19 chapter 1, of any such bank, savings and loan association or trust company
20 while acting within the scope of the employee's employment.

21 3. "Federal covered adviser" means an investment adviser registered
22 under the investment advisers act of 1940.

23 4. "IARD" MEANS THE INVESTMENT ADVISER REGISTRATION DEPOSITORY
24 OPERATED BY THE NATIONAL ASSOCIATION OF SECURITIES DEALERS.

25 5. "Investment adviser" means any person who, for compensation,
26 engages in the business of advising others, either directly or through
27 publications or writings, as to the value of securities or as to the
28 advisability of investing in, purchasing or selling securities or who, for
29 compensation and as a part of a regular business, issues or promulgates
30 analyses or reports concerning securities. Investment adviser includes
31 financial planners and other persons who, as an integral component of other
32 financially related services, provide the foregoing investment advisory
33 services to others for compensation and as part of a business or who hold
34 themselves out as providing the foregoing investment advisory services to
35 others for compensation. Investment adviser does not include:

36 (a) An investment adviser representative.

37 (b) A depository institution.

38 (c) A lawyer, law firm, certified public accountant or accounting firm
39 whose performance of the investment advisory services is solely incidental
40 to the practice of the person's profession or who does not do any of the
41 following:

42 (i) Exercise investment discretion with respect to the assets of
43 clients or maintain custody of the assets of clients for the purpose of
44 investing the assets, except if the person is acting in a bona fide fiduciary

1 capacity such as an executor, trustee, personal representative, estate or
2 trust agent, guardian or conservator.

3 (ii) Accept or receive directly or indirectly any commission, fee or
4 other remuneration contingent on the purchase or sale of any specific
5 security by a client of the person.

6 (iii) Give advice on the purchase or sale of specific securities other
7 than advice about specific securities that is based on financial statement
8 analysis or tax considerations that are reasonably related to and in
9 connection with the person's profession.

10 (d) A publisher, employee or columnist of any newspaper, news column,
11 newsletter, news magazine or business or financial publication or service,
12 whether communicated in hard copy form, by electronic means or otherwise,
13 that does not consist of the rendering of advice on the basis of the specific
14 investment situation of each client.

15 (e) An insurance company or agent that is licensed or authorized by
16 the department of insurance to transact the business of insurance, including
17 the sale of annuities, whose performance of the investment advisory services
18 is solely incidental to the conduct of business as an insurance company or
19 agent and that receives no special compensation for providing investment
20 advisory services.

21 (f) A real estate salesperson or real estate broker who is licensed
22 or authorized by the state real estate department to transact the business
23 of real estate, whose performance as an investment adviser is solely
24 incidental to the conduct of the individual's business as a broker or
25 salesman and who receives no special compensation for providing investment
26 advisory services.

27 (g) Any officer, director, partner or employee of an entity engaged
28 in selling interest in entities that invest in real property, including
29 partnerships, corporations or sole proprietorships, if such transactions are
30 otherwise subject to the securities laws of the United States or this state.

31 (h) Mortgage brokers or mortgage bankers who are licensed by the state
32 banking department to transact the business of a mortgage broker or mortgage
33 banker, and their employees, whose performance of any investment advisory
34 service is solely incidental to the conduct of the business of a mortgage
35 broker or mortgage banker and who receives no special compensation for
36 providing investment advisory services.

37 5. 6. "Investment adviser representative" means any partner, officer
38 or director of an investment adviser, any individual who occupies a status
39 or performs functions similar to a partner, officer or director of an
40 investment adviser or any other individual who is employed by or associated
41 with an investment adviser, except clerical or ministerial personnel, and who
42 does any of the following:

43 (a) Makes any recommendations or otherwise renders advice regarding
44 securities.

45 (b) Manages accounts or portfolios of clients.

1 (c) Determines which recommendation or advice regarding securities
2 should be given to a client if the individual is a member of the investment
3 adviser's investment committee that determines general investment advice to
4 be given to clients or the individual determines general client advice if the
5 investment adviser has no investment committee, except that if an investment
6 adviser has more than five individuals who make recommendations or give
7 advice, only the supervisors of those individuals are investment adviser
8 representatives.

9 (d) Solicits, offers or negotiates for the sale of or sells investment
10 advisory services.

11 (e) Directly supervises employees who perform any of the acts
12 described in this paragraph.

13 ~~6.~~ 7. "Investment advisers act of 1940" means the act of Congress
14 known as the investment advisers act of 1940 (15 United States Code section
15 80b).

16 ~~7.~~ 8. "Investment company" means any company that is registered under
17 the investment company act of 1940.

18 ~~8.~~ 9. "Investment company act of 1940" means the act of Congress
19 known as the investment company act of 1940 (15 United States Code section
20 80a).

21 ~~9.~~ 10. "Licensed investment adviser" means an investment adviser
22 licensed under this chapter.

23 ~~10.~~ 11. "Licensed investment adviser representative" means an
24 investment adviser representative licensed under this chapter.

25 ~~11.~~ 12. "Open-end company" means a management company that is offering
26 for sale or has outstanding any redeemable security of which it is the
27 issuer.

28 ~~12.~~ 13. "Solely incidental to the practice of the person's profession"
29 and "solely incidental to the conduct of the person's business" means that
30 the person does not hold itself out to the public as a provider of investment
31 advisory services, the investment advisory services are rendered in
32 connection with and reasonably related to the professional services or
33 business transactions being provided or consummated and the fee charged for
34 the investment advisory services is based on the same factors used by the
35 person to determine the fees for the person's professional or business
36 services.

37 ~~13.~~ 14. "Unit investment trust" means an investment company that is
38 organized under a trust indenture, contract of custodianship or agency or
39 similar instrument, that does not have a board of directors and that issues
40 only redeemable securities, each of which represents an undivided interest
41 in a unit of specified securities, but does not include a voting trust.

1 Sec. 13. Section 44-3133, Arizona Revised Statutes, is amended to
2 read:

3 44-3133. Power to require testimony and production of records

4 A. For the purpose of investigations or hearings that, in the opinion
5 of the commission, are necessary and proper for the enforcement of this
6 chapter, any member of the commission, the director or any officer or
7 officers designated by the commission may administer oaths and affirmations,
8 subpoena witnesses, take evidence and require by subpoena duces tecum or by
9 citation the production of books, papers, contracts, agreements or other
10 documents, records or information, whether filed or kept in original form or
11 electronically stored or recorded, that the commission deems relevant or
12 material to the inquiry.

13 B. THE COMMISSION MAY ISSUE AND APPLY TO ENFORCE A SUBPOENA IN THIS
14 STATE AT THE REQUEST OF A SECURITIES AGENCY OR ADMINISTRATOR OF ANOTHER STATE
15 IF THE ACTIVITIES CONSTITUTING AN ALLEGED VIOLATION FOR WHICH THE INFORMATION
16 IS SOUGHT WOULD BE A VIOLATION OF THIS CHAPTER IF THE ACTIVITIES HAD OCCURRED
17 IN THIS STATE.

18 Sec. 14. Section 44-3151, Arizona Revised Statutes, is amended to
19 read:

20 44-3151. Licensure required; exclusion; violation;
21 classification

22 A. A person shall not transact business in this state as an investment
23 adviser or investment adviser representative unless any of the following
24 applies:

- 25 1. The person is licensed under this article.
26 2. The person is a federal covered adviser and has made a notice
27 filing under this article.
28 3. The person is exempt from licensure.
29 4. The person is a federal covered adviser and is not subject to the
30 notice filing requirements prescribed in section 44-3153.

31 B. The licensure requirements of this article do not apply to any
32 federal covered adviser or a person that is excluded from the definition of
33 an investment adviser under section 202(a)(11) of the investment advisers act
34 of 1940.

35 C. An investment adviser that is required to be licensed shall not
36 employ an investment adviser representative unless the investment adviser
37 representative is licensed under this article. The licensure of an
38 investment adviser representative is not effective during any period of time
39 that the investment adviser representative is not employed by a licensed
40 investment adviser or by a federal covered adviser that has made a notice
41 filing pursuant to section 44-3153, subsection D- E. A licensed investment
42 adviser shall promptly notify the commission when an investment adviser
43 representative begins or terminates employment with the investment adviser
44 by filing a completed form U-4 or form U-5 or any other form as the director
45 may designate.

1 D. An investment adviser representative shall not conduct business on
2 behalf of a federal covered adviser, unless that investment adviser
3 representative is licensed under this article. A federal covered adviser
4 shall notify the commission if any investment adviser representative begins
5 or terminates employment with that federal covered adviser by filing a
6 completed form U-4, form U-5 or any other form the director designates for
7 that purpose.

8 E. A person who knowingly violates this section is guilty of a class
9 1 misdemeanor.

10 Sec. 15. Section 44-3153, Arizona Revised Statutes, is amended to
11 read:

12 44-3153. Application for licensure as investment adviser;
13 notice filings by federal covered advisers

14 A. Any person may apply for licensure as an investment adviser. An
15 application for licensure shall be signed by the applicant and duly verified
16 by oath.

17 B. An application for licensure as an investment adviser shall be
18 filed with the commission THROUGH THE IARD. IF THE IARD DOES NOT PROVIDE FOR
19 RECEIPT OF A FILING, THE FILING MAY BE MADE WITH THE COMMISSION by mail, the
20 CRD system, the SRD system or any other method that is reasonably acceptable
21 to the commission and.

22 C. AN APPLICATION FOR LICENSURE shall contain the following, together
23 with other information the commission prescribes:

24 1. A completed uniform application for investment adviser registration
25 under the investment advisers act of 1940 together with other forms
26 designated by the director.

27 2. Proof of compliance with written examination requirements.

28 3. Financial reports as required by the commission.

29 4. A notarized affidavit of any officer, director, partner, member,
30 trustee or manager of the applicant that states:

31 (a) That a review of the records of the investment adviser has been
32 conducted.

33 (b) Whether any investment adviser activity has been conducted with
34 residents of this state before licensure as an investment adviser.

35 5. If the applicant intends to have a branch office in this state, the
36 address and name of a contact individual at that branch office.

37 ~~C.~~ D. An application for licensure as an investment adviser shall be
38 accompanied by payment of the licensure fee prescribed in section 44-3181.

39 ~~D.~~ E. A federal covered adviser may transact business in this state
40 as an investment adviser if the federal covered adviser makes a notice filing
41 with the commission THROUGH THE IARD. IF THE IARD DOES NOT PROVIDE FOR
42 RECEIPT OF A FILING, THE FILING MAY BE MADE WITH THE COMMISSION by mail, the
43 CRD system, the SRD system or any other method that is reasonably acceptable
44 to the commission.

45 F. The notice filing shall consist of all of the following:

1 1. Copies of those documents that are filed with the SEC and that the
2 commission requires to be filed.

3 2. ~~An originally executed~~ A consent to service of process.

4 3. A notice filing fee as prescribed in section 44-3181.

5 ~~E.~~ G. A notice filing is effective on compliance with the
6 requirements of subsection ~~D~~ E of this section and remains effective until
7 December 31 unless it is renewed before that time by filing with the
8 commission any renewal documents prescribed by the commission along with the
9 notice filing fee prescribed in section 44-3181.

10 ~~F.~~ H. ~~An investment~~ A FEDERAL COVERED adviser may terminate a notice
11 filing by notifying the commission of that termination THROUGH THE IARD. IF
12 THE IARD DOES NOT PROVIDE FOR RECEIPT OF A FILING, THE FILING MAY BE MADE
13 WITH THE COMMISSION by mail, ~~the CRD system, the SRD system~~ or any other
14 method that is reasonably acceptable to the commission.

15 Sec. 16. Section 44-3155, Arizona Revised Statutes, is amended to
16 read:

17 44-3155. Investment adviser license; notification

18 A. If an applicant for licensure as an investment adviser fully
19 complies with this article and commission rules adopted under this article,
20 the director shall license the applicant as an investment adviser, unless the
21 commission finds cause for denial as provided in article 6 of this chapter.

22 B. After the director has licensed an applicant as an investment
23 adviser or has received a complete notice filing from a federal covered
24 adviser, the director shall promptly notify the applicant or the federal
25 covered adviser THROUGH THE IARD, by mail ~~or by the CRD system~~ or BY any
26 other ~~electronic system~~ METHOD that is reasonably acceptable to the
27 commission.

28 Sec. 17. Section 44-3156, Arizona Revised Statutes, is amended to
29 read:

30 44-3156. Application for licensure as investment adviser
31 representative

32 A. Any individual may apply for licensure as an investment adviser
33 representative. An application for licensure as an investment adviser
34 representative shall be signed by the applicant and by the licensed or
35 federal covered adviser employing or intending to employ the applicant and
36 ~~shall be duly verified by oath.~~

37 B. An application for licensure as an investment adviser
38 representative shall be filed with the commission THROUGH THE IARD. IF THE
39 IARD DOES NOT PROVIDE FOR RECEIPT OF A FILING, THE FILING MAY BE MADE WITH
40 THE COMMISSION by mail, ~~the CRD system, the SRD system~~ or any other
41 reasonable method that is acceptable by TO the commission and.

42 C. AN APPLICATION FOR LICENSURE shall include the following, together
43 with other information the commission prescribes:

1 1. A completed form U-4 or any other form as the director may
2 designate. An applicant that has a current form U-4 filed with this state
3 may submit a brief written request for licensure with the commission.

4 2. Proof of compliance with written examination requirements.

5 ~~C.~~ D. An application for licensure as an investment adviser
6 representative shall be accompanied by payment of the licensure fee
7 prescribed in section 44-3181.

8 Sec. 18. Section 44-3157, Arizona Revised Statutes, is amended to
9 read:

10 44-3157. Investment adviser representative license;
11 notification

12 A. If an applicant for licensure as an investment adviser
13 representative fully complies with this article and commission rules adopted
14 under this article, the director shall license the applicant as an investment
15 adviser representative, unless the commission finds cause for denial as
16 provided in article 6 of this chapter.

17 B. After the director has licensed an applicant as an investment
18 adviser representative, the director shall promptly notify the applicant of
19 the licensure by mail ~~or by the CRD system~~, THROUGH THE IARD or BY any other
20 ~~electronic system~~ METHOD that is reasonably acceptable to the commission.

21 Sec. 19. Section 44-3158, Arizona Revised Statutes, is amended to
22 read:

23 44-3158. Transfer or expiration of licensure; automatic
24 suspension

25 A. All licenses expire on December 31 of each year unless renewed
26 before expiration.

27 B. An investment adviser representative may transfer that investment
28 adviser representative's license to an investment adviser that is either
29 licensed by the commission or that has made a notice filing with the
30 commission by filing a completed application for licensure and remitting a
31 transfer fee to the commission THROUGH THE IARD. IF THE IARD DOES NOT
32 PROVIDE FOR RECEIPT OF A FILING, THE FILING MAY BE MADE WITH THE COMMISSION
33 BY MAIL OR ANY OTHER REASONABLE METHOD THAT IS ACCEPTABLE TO THE
34 COMMISSION. The ~~licensure~~ LICENSE of a ~~licensed~~ AN investment adviser
35 representative will automatically be suspended from the time of termination
36 of employment with an investment adviser until the investment adviser
37 representative is employed by another licensed or federal covered adviser,
38 the director is notified of the employment by the investment adviser in
39 writing and the investment adviser is notified of approval of the licensure
40 by the director by mail, ~~THROUGH the CRD system, the SRD system~~, IARD or BY
41 any other reasonable method established by the commission or the investment
42 adviser representative has complied with all requirements in accordance with
43 a temporary investment adviser representative transfer program. The
44 commission may adopt rules providing for temporary transfer of licensure of
45 investment adviser representatives.

1 Sec. 20. Section 44-3159, Arizona Revised Statutes, is amended to
2 read:

3 44-3159. Reporting requirements

4 A. In order to retain licensure, licensed investment advisers and
5 investment adviser representatives shall file the following with the
6 commission THROUGH THE IARD:

7 1. A supplemental statement showing any material changes in the facts
8 contained in the original application for licensure as supplemented or
9 amended as the changes occur or within thirty days after the change.

10 2. If a licensed investment adviser has custody of client monies or
11 securities or requires payment of advisory fees six months or more in advance
12 and in excess of five hundred dollars for each client, an audited balance
13 sheet as of the end of the investment adviser's fiscal year. Each balance
14 sheet shall be:

15 (a) Prepared in conformity with generally accepted accounting
16 principles and examined in accordance with generally accepted auditing
17 standards.

18 (b) Audited by an independent certified public accountant.

19 (c) Accompanied by an opinion of the independent certified public
20 accountant as to the report of financial position, and by a note stating the
21 principles used to prepare the report, the basis of included securities and
22 any other explanations required for clarity.

23 B. IF THE IARD DOES NOT PROVIDE FOR RECEIPT OF A FILING, THE FILING
24 MAY BE MADE WITH THE COMMISSION BY MAIL OR ANY OTHER REASONABLE METHOD THAT
25 IS ACCEPTABLE TO THE COMMISSION.

26 ~~B.~~ C. The financial statements prescribed in subsection A shall be
27 filed with the commission within ninety days after the end of the investment
28 adviser's fiscal year.

29 ~~C.~~ D. Any licensed investment adviser that has its principal place
30 of business in another state is exempt from the requirements prescribed in
31 subsection A if all of the following apply:

32 1. The investment adviser is registered as an investment adviser with
33 the state in which it maintains its principal place of business.

34 2. The investment adviser has complied with the financial reporting
35 requirements, if any, of the state in which it maintains its principal place
36 of business.

37 3. If prescribed by the commission, the investment adviser files with
38 the commission a copy of the financial reports it files with the state in
39 which it maintains its principal place of business.

40 Sec. 21. Section 44-3181, Arizona Revised Statutes, is amended to
41 read:

42 44-3181. Fees; penalties; abandonment

43 A. The annual nonrefundable license fee for each licensed investment
44 adviser and investment adviser representative and the annual nonrefundable
45 notice filing fee for each federal covered adviser shall be paid to the

1 commission on or before the last working day of December. The annual
2 nonrefundable license fee for each investment adviser and the annual
3 nonrefundable notice filing fee prescribed in section 44-3153, subsection D-
4 F are two hundred fifty dollars and the annual nonrefundable license fee for
5 each investment adviser representative is forty dollars.

6 B. An investment adviser that fails to timely renew an annual
7 INVESTMENT ADVISER OR INVESTMENT ADVISER REPRESENTATIVE license or notice
8 filing shall pay a penalty of twenty-five dollars per business day until the
9 appropriate documents and fee are filed, up to a maximum of forty business
10 days. Failure to timely renew is not a violation of section 44-3151 if the
11 license or notice filing fee and penalty are paid within forty business days.
12 Failure to renew within forty business days may result in additional
13 sanctions as provided in this chapter.

14 C. The transfer fee for an investment adviser representative
15 transferring that investment adviser representative's license from one
16 investment adviser to another investment adviser is forty dollars.

17 D. ALL APPLICATIONS, WITHDRAWALS, TERMINATIONS, TRANSFERS, RENEWALS
18 OR OTHER FILINGS WITH THE IARD SHALL BE ON THE FORMS REQUIRED BY THE IARD AND
19 SHALL BE ACCOMPANIED BY ANY REASONABLE COSTS CHARGED BY THE IARD FOR
20 PROCESSING THE FILINGS. ANY PERSON REQUIRED TO PAY A FEE PURSUANT TO THIS
21 SECTION MAY TRANSMIT THE FEE TO THE COMMISSION THROUGH THE IARD.

22 E. THE COMMISSION SHALL RETAIN ANY NOTICE FILING OR LICENSURE FEES
23 COLLECTED IN CONNECTION WITH ABANDONED APPLICATIONS OR NOTICE FILINGS. A
24 notice filing made pursuant to section 44-3153, subsection D or an
25 application for licensure of an investment adviser or investment adviser
26 representative is deemed abandoned if BOTH:

27 1. The notice filing or application has been on file with the
28 commission for ~~a minimum of twelve~~ AT LEAST SIX months and OR the person
29 making the filing or the applicant OR NOTICE FILER has failed to respond to
30 A REQUEST FOR INFORMATION FOR AT LEAST TWO MONTHS AFTER THE DATE OF THE
31 REQUEST.

32 2. THE APPLICANT OR NOTICE FILER HAS FAILED TO RESPOND TO the
33 commission's notice of warning of abandonment within sixty calendar days
34 after the date of the warning. ~~The commission shall retain any notice filing~~
35 ~~or licensure fees collected in connection with abandoned applications or~~
36 ~~notice filings.~~

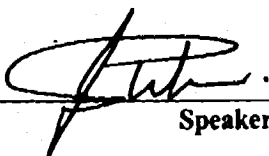
APPROVED BY THE GOVERNOR MARCH 13, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 13, 2001.

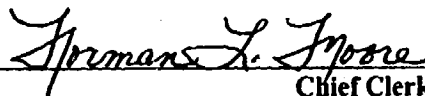
Passed the House March 08, 20 01,

by the following vote: 49 Ayes,

11 Nays, 0 Not Voting



Speaker of the House

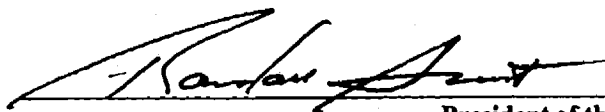


Chief Clerk of the House

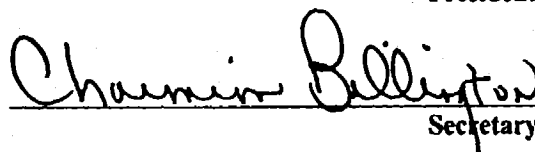
Passed the Senate January 29, 20 01,

by the following vote: 27 Ayes,

2 Nays, 1 Not Voting



President of the Senate



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12 day of March, 20 01,

at 11:27 o'clock A M.



Secretary to the Governor

Approved this 13 day of

March, 20 01,

at 12:01 o'clock P M.



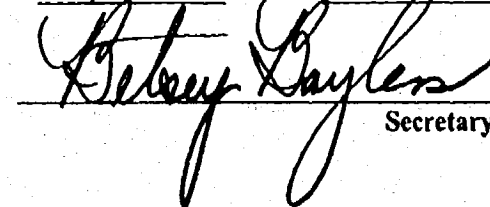
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 13th day of March, 20 01,

at 2:38 o'clock PM M.



Secretary of State

S.B. 1044